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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,573	03/29/2005	Robert David Black	ROCKCO P69AUS	9147
20210 7590 05/14/2008 DAVIS BUJOLD & Daniels, P.L.L.C. 112 PLEASANT STREET CONCORD, NH 03301			EXAMINER HIJAZ, OMAR F	
			ART UNIT 4165	PAPER NUMBER
			MAIL DATE 05/14/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/529,573	Applicant(s) BLACK ET AL.	
	Examiner OMAR HIJAZ	Art Unit 4165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/29/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is a first Office Action Non-Final rejection on the merits. New claims 5-8, are currently pending and have been considered below.

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Great Britain on October 18, 2002. It is noted, however, that applicant has not filed a certified copy of the 0224292.3 application as required by 35 U.S.C. 119(b).

Specification

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

3. The disclosure is objected to because of the following informalities: The specification is replete with terms which are not concise and exact. Examples of some inexact or verbose terms used in the specification are: In particular, the "support frame to be maintained at horizontal or at a predetermined angle to the horizontal" element has not been shown to be supported by the original disclosure (page 3, lines 20-21).

Appropriate correction is required.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a) because they fail to show ends 19A and 20A for securing of the telescoped side arms as described in the specification (disclosure of invention, paragraph 024). In addition, the drawings are objected to under 37 CFR 1.83(a) because they fail to show end 34 of telescopic prop

35 as described in the specification (disclosure of invention, paragraph 027). In addition, the drawings are objected to under 37 CFR 1.83(a) because they fail to show upper tube 35A as described in the specification (disclosure of invention, paragraph 027). In addition, the drawings are objected to under 37 CFR 1.83(a) because they fail to show lower adjustable foot 35B as described in the specification (disclosure of invention, paragraph 027). Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "20" has been used to designate both the side arm and an opening in the floor (disclosure of invention, paragraphs 023 and 025). In addition, the drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "S" has been used to designate both the spacing of the first base frame and a stair (disclosure of invention, paragraphs 024 and 025). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 5 is objected to because of the following informalities: the phrase "the second level being offset from the below the first level" (page 3, lines 17-18) is miswritten and should be replaced with "the second level being offset from and below the first level" as written in the specification.

Claim 5 recites the limitation "the first base frame" (page 3, line 7). There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the second base frame"(page 3, line 7). There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 5, the recitation "the opposite end to the one end" renders the claim indefinite since it is unclear as to which opposite end the applicant is referring to.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Testu (FR 2,663,075).

As per claim 5, Testu teaches a support frame which is O-shaped in plan (support formed by a rectangular frame) bounding an open central region (figure 12) the support frame including first and second members which are each U-shaped in plan each member being in the form of a base frame from which extend two side arms (11,

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44 and 4, 40 respectively, figure 9); the first and second members having their side arms telescopically engaged to define sides to the open central region of the O-shaped support frame (structural bars which contain a structural bar with smaller cross section and slide in one another, page 2 lines 8-9 of translated document); the telescopic engagement providing for : the spacing of the first base frame to be adjustable over a range of distances (making it possible to increase the surface area of the frame, page 2 lines 9-10); and the temporary securing of the first member to the second member at a predetermined spacing (the threaded rod of tightening bolt (10) that locks the sliding structural bars in a chosen position in the fixed structural bars, page 5 lines 12-14 of translated document); the base frame of the first member being adapted for location at a first level at a first working location (figure 12); the second member being adapted , at a position remote from the first member, for location at a second level at a second working location (figure 12) by means of at least one leg pivotably attached at or near one end of the, or each, leg to the base frame of the second member or to a side arm thereof (36 figure 12); the opposite end to the one end of the, or each, leg being adapted for location on the second working location (36 figure 12); the second level being offset from the below the first level (figure 12).

As per claim 6, Testu teaches the, or each, leg can be varied in length to provide for the support frame to be maintained horizontal or at a predetermined angle to the horizontal (the height of each leg can be adjusted by a quick locking system, page 2 line 12).

As per claim 7, Testu teaches a platform member which, in a first working position, serves to fill the open central region of the support frame so as to prevent the inadvertent passage of an article or a person from above the support unit through the otherwise open central region (platform with a rigid and firmly connected metallic lattice, page 2 lines 18-19) and a second working position where the platform member is withdrawn to allow access through the open central region (a second metallic lattice sliding in two slideways connected with the fixed frame to increase or decrease the surface area of the platform).

As per claim 8, Testu teaches a platform member which is, at least in part, of openwork construction to enable a view to be obtained through the open central region, when the platform is in the first working position (6 figure 12 illustrates a metallic lattice which is construed to enable a view to be obtained through the open central region) .

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 4,371,057, Blier, Telescopic Scaffold, Feb. 1, 1983, whole document. This art is pertinent to the applicant's disclosure in that it discloses a scaffold system with adjustable arms and legs as shown in figure 1 which is comparable to figure 1 of the current application.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMAR HIJAZ whose telephone number is (571)270-5790. The examiner can normally be reached on Mon-Fri 7:30 a.m. - 5:00 p.m. (alternating Fridays).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmin can be reached on (571)272-6782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OH

/Lynda Jasmin/
Supervisory Patent Examiner, Art Unit 4165

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